

FD-133 (Rev. 9/89) Bill of Costs

APPENDIX R

UNITED STATES DISTRICT COURT

Eastern

District of

Pennsylvania

National Conference of Bar Examiners

BILL OF COSTS

V.
Multistate Legal Studies, Inc., d/b/a
PMBR, Robert Feinberg, and Dona Zimmerman

Case Number:

Judgment having been entered in the above entitled action on Aug. 23, 2006 against Multistate Legal Studies,
the Clerk is requested to tax the following as costs:

Fees of the Clerk	\$ _____
Fees for service of summons and subpoena	_____
Fees of the court reporter for all or any part of the transcript necessarily obtained for use in the case	<u>15,998.08</u>
Fees and disbursements for printing	_____
Fees for witnesses (itemize on reverse side)	_____
Fees for exemplification and copies of papers necessarily obtained for use in the case	<u>61,293.61</u>
Docket fees under 28 U.S.C. 1923	_____
Costs as shown on Mandate of Court of Appeals	_____
Compensation of court-appointed experts	_____
Compensation of interpreters and costs of special interpretation services under 28 U.S.C. 1828	_____
Other costs (please itemize)	_____
TOTAL	\$ <u>77,291.69</u>

SPECIAL NOTE: Attach to your bill an itemization and documentation for requested costs in all categories.

DECLARATION

I declare under penalty of perjury that the foregoing costs are correct and were necessarily incurred in this action and that the services for which fees have been charged were actually and necessarily performed. A copy of this bill was mailed today with postage prepaid to: Manny Pokotilow

Signature of Attorney:

Name of Attorney:

Barbara W. Mather

For National Conference of Bar Examiners
Name of Claiming Party

Date: September 11, 2006

Costs are taxed in the amount of _____ and included in the judgment.

Clerk of Court

By:

Deputy Clerk

Date

[illegible]

NOTICE

Section 1924, Title 28, U.S. Code (effective September 1, 1948) provides:

"Sec. 1924. Verification of bill of costs."

"Before any bill of costs is taxed, the party claiming any item of cost or disbursement shall attach thereto an affidavit, made by himself or by his duly authorized attorney or agent having knowledge of the facts, that such item is correct and has been necessarily incurred in the case and that the services for which fees have been charged were actually and necessarily performed."

See also Section 1920 of Title 28, which reads in part as follows:

"A bill of costs shall be filed in the case and, upon allowance, included in the judgment or decree."

The Federal Rules of Civil Procedure contain the following provisions:

Rule 54 (d)

“Except when express provision therefor is made either in a statute of the United States or in these rules, costs shall be allowed as of course to the prevailing party unless the court otherwise directs, but costs against the United States, its officers, and agencies shall be imposed only to the extent permitted by law. Costs may be taxed by the clerk on one day’s notice. On motion served within 5 days thereafter, the action of the clerk may be reviewed by the court.”

Rule 6(e)

Rule 6(e)
 “Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, 3 days shall be added to the prescribed period.”

Rule 58 (In Part)

"Entry of the judgment shall not be delayed for the taxing of costs."

ITEMIZATION FOR BILL OF COSTS

I. FEES OF THE COURT REPORTER FOR ALL OR ANY PART OF THE TRANSCRIPT NECESSARILY OBTAINED FOR USE IN THE CASE

A. Lucia Panzarella Deposition transcript	\$ 229.00
B. Dona Zimmerman Deposition transcript	975.95
C. Robert Feinberg (4/27/05) Deposition transcript	840.40
D. Robert Feinberg (4/26/05) Deposition transcript	1,284.35
E. Erica Moeser (1/27/05) Deposition transcript	1,025.75
F. Erica Moeser (1/28/05) Deposition transcript	395.50
G. Susan Case Deposition transcript	665.00
H. Deborah O'Regan Deposition transcript	866.31
I. Inna Shapiro Deposition transcript	491.00
J. Samuel Kursh Deposition transcript	2,247.80
K. Dorothy Benson Deposition transcript	1,415.90
L. Steven H. Palmer Deposition transcript	1,601.95
M. Jill Karofsky Deposition transcript	301.70
N. Daniel Bernstine Deposition transcript	954.82

O. Edward Kimball Deposition transcript	772.85
P. Jerome Braun Deposition transcript	252.30
Q. James Hogan and Lynda Leidiger Deposition transcripts	473.55
R. Patricia Hanick Deposition transcript	103.95
S. Trial transcript	1,100.00
SUBTOTAL	\$ 15,998.08

**II. FEES FOR EXEMPLIFICATION AND COPIES OF PAPER NECESSARILY
OBTAINED FOR USE IN THE CASE**

Exemplification

A. Duplication of 33 VHS tapes (PMBR lectures)	\$ 802.50
B. Transferring of VHS to DVD	2,379.10
C. Posterboard exhibit for oral argument	77.04
D. Color posters for trial	1,863.05
E. Color posters for trial	513.95
F. Color posters for trial	257.61
G. Certified certificates of registration from U.S. Copyright Office, copies of related C.O. Correspondence, and copies of certain deposits	2,120.00
H. Additional certificate of registration	30.00
I. Copying, printing and/or research by U.S. Copyright Office	600.00
SUBTOTAL	\$ 8,643.25

Copies of Papers

A. Copies of documents produced by PMBR	\$ 7,734.50
B. Copies of documents produced by PMBR at the deposition of Lucia Panzarella (2/22/05)	328.53
C. Copies of documents for use in connection with Robert Feinberg deposition	1,643.52
D. Copies of PMBR supplemental production	1,089.69
E. Copies of PMBR production	797.36
F. Copies of PMBR production	797.36
G. Copies of NCBE trial exhibits	2,862.68
H. Copies of exhibits designated by PMBR	3,910.53
I. Copies of Kursh documents produced by PMBR	3,190.42
J. Copies of trial exhibits	13,387.63
K. Copies of additional trial exhibits	6669.90
L. Copies of ACT documents	331.79
M. Additional copies of trial exhibits	3,852.00
N. Additional copies of trial exhibit	496.99
O. Copies of PMBR exhibit binders	2,221.92
P. Copies of deposition exhibits for use at trial	368.67
Q. Copies of exhibits to Hanick, Hogan and Leidiger depositions	658.37
R. Copies of admitted exhibit binders	1,039.14
S. Copies of Kursh binder	65.76
T. Additional copies of NCBE trial exhibits	473.40

U. Copies of exhibits to use in connection with proposed findings of fact and conclusions of law	730.20
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SUBTOTAL	\$ 52,650.36
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TOTAL	\$ 61,293.61
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GRAND TOTAL	\$ 77,291.69
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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

NATIONAL CONFERENCE OF BAR)	
EXAMINERS,)	
)	
Plaintiff,)	
)	
v.)	No. 2:04-CV-03282-JF
)	
MULTISTATE LEGAL STUDIES, INC.,)	
d/b/a PMBR, ROBERT FEINBERG, and)	
DONA ZIMMERMAN,)	
Defendants.)	

DECLARATION OF BARBARA W. MATHER

1. My name is Barbara W. Mather. I am more than twenty-one (21) years of age. I am competent to make this declaration, and, unless indicated otherwise, I have personal knowledge of the facts stated herein.

2. I am a partner with the law firm of Pepper Hamilton, L.L.P. I have represented the National Conference of Bar Examiners ("NCBE") in its lawsuit against Multistate Legal Studies, Inc., d/b/a PMBR, Robert Feinberg, and Dona Zimmerman.

3. The costs described herein were incurred during the course of the above-captioned litigation and charged by my law firm to our client, NCBE. To the best of my knowledge, the costs herein are correct and were actually and necessarily incurred.

4. NCBE seeks to recover the fees of the court reporter for all of the transcripts necessarily obtained for use in this case. With respect to transcripts paid for by Pepper Hamilton, NCBE is seeking recovery for the court reporter and transcript fees for the following deposition transcripts: Lucia Panzarella, Dona Zimmerman, Robert Feinberg, Erica Moeser, and Susan Case. NCBE took the depositions of Lucia Panzarella, Dona Zimmerman, and Robert Feinberg for discovery purposes. In addition, all or most of these depositions were used in

NCBE's summary judgment briefs and/or at trial. NCBE used copies of the deposition transcripts in trial preparation, in responding to PMBR's claims, and/or in preparing summary judgment papers. The court reporter costs to NCBE to obtain transcripts of these depositions, based upon a review of the associated invoices, were as follows:

<u>Deponent</u>	<u>Transcript Cost</u>
Lucia Panzarella	\$229.00
Dona Zimmerman	\$975.95
Robert Feinberg (day one)	\$1,284.35
Robert Feinberg (day two)	\$840.40
Erica Moeser (day one)	\$1,025.75
Erica Moeser (day two)	\$395.50
Susan Case	\$665.00

5. NCBE is also seeking recovery of the court reporter fees for the trial transcript in this matter. This trial transcript was used extensively to prepare NCBE's proposed findings of fact and conclusions of law. It has also been used in responding to certain post-trial motions filed by PMBR. The cost for the transcript was \$1100.00. This cost was paid by Pepper Hamilton and invoiced to NCBE.

6. NCBE is seeking to recover the costs of exemplification in this case. Specifically, NCBE spent \$802.50 to duplicate 33 VHS tapes that were provided for review by PMBR during discovery. In order for NCBE to have copies of the tapes, they had to be duplicated. NCBE later spent \$2,379.10 to transfer these tapes to DVD format so that they could be used at trial and played using a computer. Finally, NCBE spent \$77.04 to obtain a posterboard exhibit for oral arguments of the proposed findings of fact and conclusions of law.

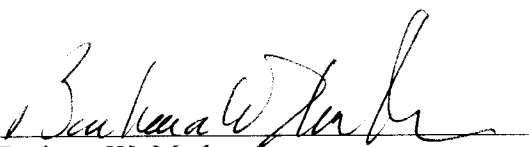
7. Finally, NCBE is seeking to recover the costs of copying materials produced during discovery by PMBR and materials that were copied for use at trial. The length and nature of this case required a large number of copies to be made throughout the course of the litigation. A review of Pepper Hamilton's invoices reveals the following copying charges:

A. Copies of documents produced by PMBR	\$ 7,734.50
B. Copies of documents produced by PMBR at the deposition of Lucia Panzarella (2/22/05)	328.53
C. Copies of PMBR documents for use in connection with Robert Feinberg deposition	1,643.52
D. Copies of PMBR supplemental production	1,089.69
E. Copies of PMBR production	797.36
F. Copies of PMBR production	797.36
G. Copies of NCBE trial exhibits	2,862.68
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R. Copies of admitted exhibit binders	1,039.14

S. Copies of Kursh binder	65.76
T. Additional copies of NCBE trial exhibits	473.40
U. Copies of exhibits used in connection with the proposed findings of fact and conclusions of law	730.20

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 8, 2006.


Barbara W. Mather

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

NATIONAL CONFERENCE OF BAR
EXAMINERS,

Plaintiff,

v.

MULTISTATE LEGAL STUDIES, INC.,
d/b/a PMBR, ROBERT FEINBERG, and
DONA ZIMMERMAN,

Defendants.

No. 2:04-CV-03282-JF

DECLARATION OF ROBERT BURGOYNE

1. My name is Robert Burgoyne. I am more than twenty-one (21) years of age. I am competent to make this declaration, and, unless indicated otherwise, I have personal knowledge of the facts stated herein.

2. I am a partner with the law firm of Fulbright & Jaworski LLP. I have represented the National Conference of Bar Examiners ("NCBE") during the entirety of its lawsuit against Multistate Legal Studies, Inc., d/b/a PMBR, Robert Feinberg, and Dona Zimmerman.

3. The costs described herein were incurred during the course of the above-captioned litigation and charged by my law firm to our client, NCBE. To the best of my knowledge, the costs herein are correct and were actually and necessarily incurred.

4. NCBE seeks to recover the fees of the court reporter for all of the transcripts necessarily obtained for use in this case. With respect to transcripts paid for by Fulbright & Jaworski, NCBE is seeking recovery for the court reporter and transcript fees for the following deposition transcripts: Deborah O'Regan, Inna Shapiro, Dorothy Benson, Steven H. Palmer, Jill Karofsky, Daniel Bernstine, Edward Kimball, Jerome Braun, James Hogan, Lydia Leidiger, Patricia Hanick, and Samuel Kursh. NCBE took the depositions of Inna Shapiro, Samuel Kursh,

Dorothy Benson, and Steven Palmer for discovery purposes. In addition, all or most of these depositions were used in NCBE's summary judgment briefs and/or at trial. NCBE used copies of the deposition transcripts in trial preparation, in responding to PMBR's claims, and/or in preparing summary judgment papers. The court reporter costs to NCBE to obtain transcripts of these depositions, based upon a review of the associated billing records, were as follows:

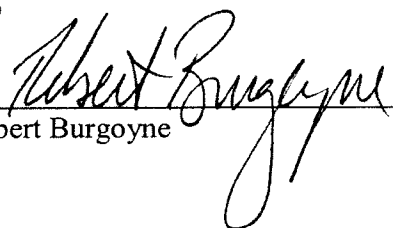
<u>Deponent</u>	<u>Transcript Cost</u>
Deborah O'Regan	\$866.31
Inna Shapiro	\$491.00
Dorothy Benson	\$1,415.90
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Jill Karofsky	\$301.70
Daniel Bernstine	\$954.82
Edward Kimball	\$772.85
Jerome Braun	\$252.30
James Hogan & Lynda Leidiger	\$473.55
Patricia Hanick	\$103.95
Samuel Kursh	\$2,247.80

5. NCBE is seeking to recover the costs of exemplification in this case. Specifically, NCBE purchased color posters containing the enlarged text of PMBR's advertising for use at trial. Costs for these posters included charges of \$1,863.05, \$513.95, and \$257.61. Additionally, NCBE had to obtain various documentation from the U.S. Copyright Office. The cost to obtain 38 certified copies of registration certificates for works on which NCBE or PMBR hold copyrights, copies of related Copyright Office correspondence, and copies of deposits, totaled

\$2,120.00. An additional certificate of registration was later obtained at a cost of \$30.00. Finally, copying, printing and/or research fees charged by the U.S. Copyright Office totaled \$600.00. The certified registration certificates were used in NCBE's summary judgment papers and at trial.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 8, 2006



Robert Burgoyne